

**STATEMENT
COMMISSIONER CAROL T. CRAWFORD
ROLLER CHAIN FROM JAPAN
INV. NO. AA1921-111 (Review)
October 8, 1998**

I have determined that interested parties have provided adequate responses to the Commission's Notice of Institution in Roller Chain from Japan; Inv. No. AA1921-111(Review). Therefore this case should proceed to a full Sunset review. However, the responses we received have raised some concerns in my mind regarding the overall level of response from domestic interested parties and the appropriate role of trade association responses in the adequacy determination.

In this review, we received responses from a large number of foreign interested parties. The only domestic interested party that responded was a trade association, the American Chain Association ("ACA"). A normal reading of the statute and regulations would lead to a conclusion that the overall response from domestic interested parties was inadequate, since none of the nine or more possible domestic producers provided direct responses. The trade association, which states that it represents five members of the domestic industry, submitted its own response as an interested party. No other direct response was received either from ACA member companies or from other members of the domestic industry that are not members of the ACA.

The response of a trade association on behalf of some or all producers raises questions about whether a trade association response should be viewed as sufficient or substantially equivalent to individual company responses. The statute and the Statement of Administrative Action ("SAA") direct the Commission to make a

determination regarding the adequacy of responses from interested parties. The statute and SAA gives great discretion to the Commission to determine adequacy as a prerequisite to deciding whether or not to undertake an expedited review. Critical to the adequacy determination is an ability to assess whether individual interested parties have a sufficient willingness to participate in the Commission review process and whether there is adequate indication that they will submit information requested throughout the proceeding. Thus testing the degree of interest of interested parties is a key feature of the statutory and regulatory framework. A trade association response submitted in addition to individual producer responses can be a useful addition to the process. A trade association response submitted in lieu of individual producer responses can act as a filter that impedes the Commission's ability to exercise its discretion to determine the degree of interest among key interested parties, the producers. We are therefore presented with a question of the weight to give a trade association response that is offered in lieu of the individual interested party producer responses requested in the Notice of Institution.

Of course, trade associations represent non-member producers not at all. Member companies may have significantly different views of individual orders and the Sunset review process itself. The statute and the SAA envision receiving --- or not receiving --- responses from individual producers. The individual company decision whether to respond, and if so, how to respond is in fact an important determinant in the process. Substituting a trade association response for individual responses may distort or even obliterate the Commission's ability to determine individual producer interest and intent. While an aggregate response by the trade association may accurately reflect the view of the association itself, it nonetheless creates a risk that the views of individual interested party producers will not be presented to the Commission as envisioned by

the statute and the SAA. Most importantly, a trade association response, if used as a surrogate for individual responses, can significantly diminish the Commission's ability to determine individual willingness to participate and to submit information requested throughout the proceeding.

Notwithstanding these concerns, it is possible that some trade association responses may provide useful information and help the Commission to assess individual member intentions in addition to the intentions of the association. I intend to examine trade association responses that are offered in lieu of individual responses on an *ad hoc* basis. In light of our statutory mandate, I will pay particular attention to the transparency of a trade association response, with respect to both data and individual member intentions. When the trade association provides substantially equivalent information to that which would be received from individual members had they responded directly, including individual statements regarding willingness to participate and intent to submit requested information, I will more likely give the trade association response substantial weight. However, when the trade association substitutes its own views for the views of its members, I will not consider a trade association response as a substitute for responses from individual members.

In this review, we know from the responses received from interested parties that there are possibly four or more domestic interested party producers that have not responded directly and are not members of the ACA. Of the five domestic producers for which ACA has submitted aggregated data, none provided an individual statement regarding its willingness to participate in the review. However, the ACA submitted affidavits from four of the five member companies it represents. The affidavits provide some information regarding their individual views of the marketplace and the likely effects

of revocation of the order. While these affidavits are not a substitute for the direct responses the statute intends to be a basis for our determinations regarding adequacy, I believe they express a good faith effort to provide the Commission with the information it is seeking, and provide at least a minimal level of transparency. I have therefore determined that interested party responses are adequate in this case.

In the future, I intend to scrutinize trade association responses before deciding what weight they should be accorded. Responses that are submitted in lieu of individual responses by interested party producers should be examined critically if we are to avoid undermining the statutory basis for the adequacy determination.